



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/731,038

12/09/2003

Lisa C. Tidwell

1DATA.096A

6744

29052 7590 05/02/2008  
SUTHERLAND ASBILL & BRENNAN LLP  
999 PEACHTREE STREET, N.E.  
ATLANTA, GA 30309

EXAMINER

FU, HAO

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

05/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,038	<b>Applicant(s)</b> TIDWELL ET AL.	
	<b>Examiner</b> HAO FU	<b>Art Unit</b> 3696	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Argument***

Applicant's only argument in the remark, filed on 03/26/2008, is that Belyi, Engel and Brodie do not disclose the concept of assessing the reliability of positive pay information about a second-party check. The examiner agrees, and additional prior art is provided to fulfill this limitation. Examiner notes that the newly added limitation appears to be not supported by the specification. Therefore, the newly added limitation is treated as new matter.

### ***Claim Rejection – USC 112***

Claim 1-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, in the amendment of the claims, applicant adds assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check. After careful review of Figure 4 and the description of Figure 4 in the specification, the examiner believes that the specification does not support the new added limitation. In Figure 4, the present invention assessing whether the Positive Pay information provides matching of the check, but it does not teach assessing the reliability of the Positive Pay information. The scoring of the Positive Pay information depends on whether there is a match

Art Unit: 3696

between Positive Pay information and a check, no match, unavailable data, or the item is already paid with another check. The specification does not teach scoring the Positive Pay based on how useful the positive pay information is in preventing check fraud in certain circumstance. Therefore, Figure 4 does not disclose assessing the reliability of the positive pay information. The examiner has performed key word search of the entire specification, and no match was found. Furthermore, the only concept that is related to reliability of the information is the "Insignia Confidence" and "Biometric Confidence". However, Insignia Confidence is a measure of confidence based on authentication marks on the check, and Biometric Confidence is a measure of confidence based on any biometric input associated with the check presenter. Again, the two confidence levels do not correspond to the reliability of the Positive Pay information. Therefore, the newly added limitation is treated as new matter.

### ***Claim Rejection -- USC 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-7 and 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belyi et al. (Pub. No.: US 2005/0080717) in view of US Patent No.: 7,257,246 to

Art Unit: 3696

Brodie et al., and further in view of Hanna et al. (Pub. No.: US 2002/0144149) and The Business Lawyer (Deterring the check fraud: The model positive pay services agreement and commentary, The Business Lawyer. Chicago: Feb 1999. Vol. 54, Iss. 2; pg. 637, 48 pgs).

As per claim 1, Belyi teaches a method of scoring risk associated with cashing a check, the method comprising:

receiving information about a check presented to an entity for cashing (see paragraph 0011 and 0031);

accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check (see paragraph 0032 and 0045); and

determining a risk score associated with cashing the presented check based at least in part on the positive pay information (see paragraph 0013 and 0032).

Examiner notes however, Belyi teaches receiving information about a first party check and accessing stored positive pay information about issued "first party check". As such, Belyi fails to teach applying the procedure on "second party check," which is a check written by a first party and presented to an entity for cashing by a second party other than the first party check writing entity. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches receiving information about a check presented to an entity for cashing (see abstract and column 10, line 4-11; also see column 9, line 23-29, which teaches creating a positive pay file for one or more payroll checks; a payroll check is a second-party check). Therefore, Brodie teaches receiving information about a check written by a first party and presented to an entity for cashing by a second party other than the first party check writing entity;

accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check so as to reimburse an entity who has provided cash in return for accepting the check (see column 13, line 41-60; Brodie discloses that the presented check is a payroll check, which is written by an entity other than the check presenter or a so called "second-party check");

determining a risk score associated with cashing the presented check based at least in part on the positive pay information (see column 2, line 51-60);

Art Unit: 3696

more importantly, Brodie specifically discloses that the checks handled by the invention include payroll check (see column 9, line 24-29); payroll check is clearly a "second-party check", which is a check that is written by one party for cashing by another party.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include receiving information about a check presented to an entity for cashing by an entity other than the check writing entity; accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check so as to reimburse an entity who has provided cash in return for accepting the check; and determining a risk score associated with cashing the presented check based at least in part on the positive pay information.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 2, Belyi teaches wherein receiving information about the presented check comprises receiving at least one of the set consisting of: bank number, account number, check number, check issue date, check amount, payee identifier, and payor

Art Unit: 3696

identifier (see paragraph 0031 and 0032).

As per claim 3, Belyi teaches wherein receiving information about the presented check comprises receiving information obtained from a magnetic ink character recognition (MICR) line on the check (see paragraph 0030 and 0031, “magnetic check reader”).

As per claim 4, Belyi teaches further comprising determining a graduated positive pay risk score based at least in part on the stored positive pay information, wherein the positive pay risk score corresponds to a graduated level of confidence that the check will be honored by the check issuer (see paragraph 0013 and paragraph 0031, “transmitted information” mentioned in paragraph 0013 includes “positive pay information” described in paragraph 0031).

As per claim 5, Belyi teaches wherein determining a risk score associated with cashing the presented check comprises determining a transaction risk score that is based at least in part on the positive pay risk score (see paragraph 0013 and paragraph 0031).

As per claim 6, Belyi teaches wherein determining the transaction risk score is further based at least in part on additional information associated with cashing the presented check (see paragraph 0032 and 0033).

As per claim 7, Belyi teaches wherein determining the transaction risk score based at least in part on additional information comprises determining the transaction risk score based at least in part on at least one of the set consisting of: additional information about the check, information about a check presenter associated with the check, and information about an entity to which the check is presented for cashing (see paragraph 0033).

As per claim 12, Belyi teaches a computerized system that determines whether to recommend the payment of a second-party check presented to an entity for processing, the system comprising:

a point of sale device installed at an entity location, wherein the point of sale device is configured to receive data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a check presented for exchange of the check for valuable consideration, the point of sale device further configured to transfer the data to a check authorization system (see paragraph 0011, “transaction information” include all information suggested in paragraph 0032);

a computer-accessible-storage medium comprising information that associates a plurality of records in a positive pay database with various issued checks (see

Art Unit: 3696

paragraph 0067); and

a computer processor configured to determine a risk score based at least in part on whether the data associated with the check and received by the point of sale device match a record in the positive pay database, the computer processor further configured to determine based at least in part on the risk score whether to recommend to the entity payment of valuable consideration to a possessor of the check (see paragraph 0013, see "risk assessment component").

Examiner notes however, Belyi does not explicitly teach that the presenting check is a second party check. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches similar computerized system for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check; also see abstract, column 2, line 51-60, column 7, line 1-6, column 9, line 14-29, and column 13, line 39-60).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the computerized system in the reference to determine whether to recommend the payment of a second-party check presented to an entity for processing.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.



Art Unit: 3696

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 13, Belyi teaches an apparatus that scores risk associated with accepting a check, the apparatus comprising:

a database that stores positive pay information about checks issued by check writers to payees wherein said positive pay information indicates issued checks that check writers are willing to honor (see paragraph 0067 and 0045);

a computer processor configured to receive input about a check presented to an entity by a check presenter claiming to be a payee (see paragraph 0011, see "point of sale device"), the computer processor further configured to use the input to access positive pay information from the database that is associated with the payor of the check (see paragraph 0032, for first party check, the payor is the same as the payee or the "customer", please refer to the next paragraph for further discussion), the computer processor further configured to determine a risk score associated with accepting the check based at least in part on the positive pay information (see paragraph 0013 and 0032).

Claim 13 is an independent claim, which does not mention about or second-party check at all. The claim language does not suggest the payee is different from the payor even after amendment. Therefore, under examiner's broadest interpretation, the check in this claim covers first-party check as well, in which the payor is the same person as the payee.

Examiner notes however, Belyi does not explicitly teach providing cash to payee in return for accepting the check based at least in part on the positive pay information. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches providing cash to payee in return for accepting the check based at least in part on the positive pay information (see column 13, line 39-67, and column 14, line 1-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include providing cash to payee in return for accepting the check based at least in part on the positive pay information.

One of ordinary skill in the art would have been motivated to modify the reference in order to allow check possessor to cash second party check.

Art Unit: 3696

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 14, Belyi teaches wherein the database further stores information about issued checks that check writers are not willing to honor (see paragraph 0023).

As per claim 15, Belyi teaches wherein the computer processor is located at a check authorization system and the database is located at a financial entity external to the check authorization system (see paragraph 0011 and 0067, "external database").

As per claim 16, Belyi teaches wherein the computer processor is located at a check authorization system and the database is located at the check authorization system.

As per claim 17, Belyi teaches an apparatus that scores risk associated with a financial transaction, the apparatus comprising:

a computer processor configured to receive information about a financial transaction associated with an obligation (see paragraph 0011, point of sale devices include computer processor), the computer processor further configured to determine a risk score associated with the financial transaction that is based at least in part on

Art Unit: 3696

stored information obtained from a payor associated with the obligation (see paragraph 0013, 0031, and 0032).

Examiner notes however, Belyi does not teach the financial transaction comprising payment of cash for a check presented by a possessor of the check, and the check being written by a payor other than the possessor. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches the financial transaction comprising payment of cash for a check presented by a possessor of the check, and the check being written by a payor other than the possessor (see column 13, line 39-67, and column 14, line 1-14; Brodie discloses that the presented check is a payroll check, which is written by a payor other than the possessor); Brodie further teaches a computer processor further configured to determine a risk score associated with the financial transaction that is based at least in part on stored information obtained from a payor associated with the obligation (see column 2, line 51-60, column 8, line 37-41, column 9, line 4-31, and column 13, line 24-67 through column 14, line 1-14; especially see column 13, line 50-57, Brodie discloses that the stored information is a record of positive check writing history of the payor and payor's account number).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the financial transaction comprising payment of cash for a check presented by a possessor of the check, and the check being written by a payor other than the possessor.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from

Art Unit: 3696

the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 18, Belyi teaches wherein the obligation comprises at least one of the set consisting of: a personal check, corporate check, company insurance refund check, tax refund check, Social Security check, payroll check, other government-issued check, a traveler's check, bank check, official check, convenience check, money order, second-party check, third-party check, value-carrying paper, and other type of cashable financial instrument (see paragraph 0005, "promissory payment" is "obligation, and prior art mentions check as promissory payments).

As per claim 19, Belyi teaches a method that scores risk associated with a financial transaction, the method comprising:

receiving information about a financial transaction associated with a obligation (see paragraph 0031); and

determining a risk score associated with the financial transaction based at least in part on stored information obtained from a payor associated with the obligation (see paragraph 0013, 0031, and 0032).

Examiner notes however, Belyi does not teach the financial transaction is associated with a second-party obligation wherein a possessor of a check written by a payor other than the possessor is seeking to cash the check. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches the financial transaction is associated with a second-party obligation wherein a possessor of a check written by a payor other than the possessor is seeking to cash the check (see column 13, line 39-67, and column 14, line 1-14; Brodie discloses that the presented check is a payroll check, which is written by a payor other than the possessor); Brodie further teaches a computer processor further configured to determine a risk score associated with the financial transaction that is based at least in part on stored information obtained from a payor associated with the obligation (see column 2, line 51-60, column 8, line 37-41, column 9, line 4-31, and column 13, line 24-67 through column 14, line 1-14; especially see column 13, line 50-57, Brodie discloses that the stored information is a record of positive check writing history of the payor and payor's account number).

Art Unit: 3696

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the financial transaction is associated with a second-party obligation wherein a possessor of a check written by a payor other than the possessor is seeking to cash the check.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 20, Belyi teaches a computerized device that indicates to an entity whether to accept a second-party check, the device comprising:

a computer processor configured to receive information about a financial transaction associated with a presentment of a check to an entity (see paragraph 0011),

the computer processor further configured to determine a risk score associated with the financial transaction based at least in part on positive pay information about the check (see paragraph 0013, 0031, and 0032),

Art Unit: 3696

the computer processor further configured to indicate to the entity whether to accept the check based at least in part on the risk score (see paragraph 0048).

Examiner notes however, Belyi does not teach the check is a second-party check and the check is presented by a possessor of the check other than the second-party for consideration from the entity. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches the check is a second-party check and the check is presented by a possessor of the check other than the second-party for consideration from the entity (see column 9, line 23-29; payroll check is a second-party check); Brodie further suggests a computer processor configured to receive information about a financial transaction associated with a presentment of a second-party check to an entity (see abstract and column 10, line 4-11); the computer processor further configured to determine a risk score associated with the financial transaction based at least in part on positive pay information about the check (see column 2, line 51-60, and column 13, line 24-63); and the computer processor further configured to indicate to the entity whether to accept the check based at least in part on the risk score (see column 13 and 14).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the check is a second-party check and the check is presented by a possessor of the check other than the second-party for consideration from the entity.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from

Art Unit: 3696

the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 21, Belyi teaches the computer processor is further configured to determine whether to guarantee the check based at least in part on the positive pay information (see paragraph 0026).

Examiner notes however, Belyi does not specifically teach using such computer processor on risk assessment of second-party check.

Brodie teaches similar computerized device for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with a computer processor configured to determine whether to guarantee the second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

As per claim 22, Belyi teaches the computer processor is further configured to determine whether to purchase the check based at least in part on the positive pay information (see paragraph 0028).

Examiner notes however, Belyi does not specifically teach using such computer processor on risk assessment of second-party check.

Brodie teaches similar computerized device for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with a computerized device configured to determine whether to purchase the second-party check from the entity.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

As per claim 23, Belyi teaches a computerized method that indicates to an entity whether to accept a second-party check, the method comprising:

receiving information about a financial transaction associated with a presentment of a check to an entity said information including positive pay information (see paragraph 0031, 0038, and 0045);

Art Unit: 3696

determining a risk score associated with the financial transaction based at least in part on positive pay information about the check (see paragraph 0013, 0031, and 0032); and

indicating to the entity whether to accept the check based at least in part on the risk score (see paragraph 0011 and 0013).

Examiner notes however, Belyi does not teach the check is a second-party check and the check is presented by a possessor of the check other than the second-party for consideration from the entity. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches the check is a second-party check and the check is presented by a possessor of the check other than the second-party for consideration from the entity (see column 9, line 23-29; payroll check is a second-party check). Refer to the discussion of this feature on claim 20.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the check is a second-party check and the check is presented by a possessor of the check other than the second-party for consideration from the entity.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from



Art Unit: 3696

the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 24, Belyi teaches determining whether to guarantee the check based at least in part on the risk score (see paragraph 0026).

Examiner notes however, Belyi does not specifically teach applying such method on second-party check.

Brodie teaches similar method for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with determining whether to authorize payment of the second-party check comprises determining whether to guarantee the second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

As per claim 25, Belyi teaches determining whether to purchase the second-party check based at least in part on the risk score (see paragraph 0028).

Examiner notes however, Belyi does not specifically teach applying such method on second-party check.

Brodie teaches similar method for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with determining whether to purchase the second-party check from the entity.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

As per claim 26, Belyi teaches a system for scoring risk associated with processing a check, the system comprising:

means for receiving information about a check presented to a check cashing entity for cashing (see paragraph 0011 and 0031, "point of sale devices");

means for accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check (see paragraph 0038 and 0045, "risk system"); and

Art Unit: 3696

means for determining a risk score associated with processing the presented check based at least in part on the positive pay information (see paragraph 0013, 0031, and 0032, "risk assessment component").

Examiner notes however, Belyi does not teach the check is a second-party check and the check is presented to a check cashing entity by a possessor of the check other than the second party. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Brodie teaches the check is a second-party check and the check is presented to a check cashing entity by a possessor of the check other than the second party (see column 9, line 23-29; payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include the check is a second-party check and the check is presented to a check cashing entity by a possessor of the check other than the second party.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

Claim 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belyi et al. (Pub. No.: US 2005/0080717) in view of US Patent No.: 7,257,246 to Brodie et al., and further in view of Hanna et al. (Pub. No.: US 2002/0144149) and The Business Lawyer (Deterring the check fraud: The model positive pay services agreement and commentary, The Business Lawyer. Chicago: Feb 1999. Vol. 54, Iss. 2; pg. 637, 48 pgs), and Engel et al. (Pub. No.: US 2004/0138975).

As per claim 8, Belyi teaches a computerized method for determining whether to authorize payment of a second-party check presented to an entity for processing, the method comprising:

obtaining with a point of sale device installed in an entity location data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a check presented for processing (see paragraph 0011 and 0032);

transmitting the data to a check authorization system (see paragraph 0011);

identifying at the check authorization system which of a plurality of positive pay databases is associated with the check (see paragraph 0038);

determining based at least in part on the risk score whether to authorize payment of the check (see paragraph 0057); and

transmitting a recommendation indicative of the authorization determination to the entity (see paragraph 0057).

Examiner notes however, Belyi fails to teach accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database; and determining a risk score based at least in part on the comparison. Further more, Belyi fails to teach assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

Art Unit: 3696

Engel et al. teaches accessing the identified positive pay database associated with the check and comparing the transmitted data and information stored in the positive pay database (see paragraph 0031 and 0032); and  
determining a risk score based at least in part on the comparison (see paragraph 0033).

Brodie teaches similar procedures as above for "second-party check". Specifically, Brodie teaches obtaining with a point of sale device installed in an entity location data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a second-party check presented for processing (see abstract and column 10, line 4-11);

accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database (see column 13, line 39-60; a payroll check is a second-party check);

determining a risk score associated with accepting the second-party check from a possessor of the check and providing valuable consideration to possessor in return for the second-party check based at least in part on the comparison (see column 2, line 51-60, and see column 9, line 23-29; the invention deals with payroll check, which is second-party check)

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Belyi to include the steps of accessing the positive pay database, comparing the information, determining a risk score based at least in part on the comparison, and using the procedures on second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to provide risk assessment for merchant or financial institution to determine whether to accept the second-party check.

Applicant states that the reason for adding assessing the reliability of the positive pay information and use this information as part of the risk scoring is that positive pay information maybe more reliable in some circumstance or less reliable in other circumstances and that in some circumstances relatively unreliable positive pay information may not necessarily result in the transaction being declined based upon the reliability of other factors that are considered in the risk assessment.

Examiner notes that the concern for the reliability of the positive pay information is known prior to the present invention. The Business Lawyer raises the issue that in some circumstances the positive pay information fails to detect check fraud (see from the bottom of page 4 through page 5). However, The Business Lawyer does not teach assessing the reliability of the positive pay information

Hanna teaches rating or assessing the trustworthiness or reliability of information based upon the source of the information (see paragraph 0027). Hanna also teaches the overall trust rating for the set of credentials is determined based upon the composite trust ratings (see abstract). Evaluating the reliability of information as part of the decision making is old and well known. For example, during war time, information from

Art Unit: 3696

the spy must be evaluated for its reliability, and the degree of reliability is a factor of risk assessment of the final decision.

Since the reliability issue of the positive pay information was known prior to the invention, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include assessing the reliability of the positive pay information and uses this rating as part of risk scoring of second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to improve the accuracy of check fraud detection.

As per claim 9, Belyi teaches obtaining with the point of sale device information (see paragraph 0011); and

transmitting information to the check authorization system (see paragraph (see paragraph 0011).

Examiner notes however, Belyi does not specify the transmitted information as "payee information".

Brodie teaches obtaining with the point of sale device information about a payee of the second-party check (see column 5, line 21-32).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Belyi to obtain payee information with the point of sale device and transmit payee information to the check authorization system.

One of ordinary skill in the art would have been motivated to modify the reference to provide more information for determining risk score.

As per claim 10, Belyi teaches determining whether to authorize payment of the second-party check comprises determining whether to guarantee the check (see paragraph 0026).

Examiner notes however, Belyi does not specifically teach applying such method on second-party check.

Brodie teaches similar method for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with determining whether to authorize payment of the second-party check comprises determining whether to guarantee the second-party check.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

As per claim 11, Belyi teaches determining whether to authorize payment of the second-party check further comprises determining whether to purchase the check from the entity (see paragraph 0028).

Examiner notes however, Belyi does not specifically teach applying such method on second-party check.

Brodie teaches similar method for second-party check (see abstract and column 9, line 23-29; a payroll check is a second-party check).

Art Unit: 3696

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the references to come up with determining whether to purchase the second-party check from the entity.

One of ordinary skill in the art would have been motivated to modify the reference in order to apply existing risk assessment method on second-party check.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO FU whose telephone number is (571)270-3441. The examiner can normally be reached on Mon-Fri/Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/THOMAS A DIXON/  
Supervisory Patent Examiner, Art Unit 3696

Hao Fu  
Examiner  
Art Unit 3696

APR-08

/Hao Fu/  
Examiner, Art Unit 3696